

CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulation: Regulations pertaining to establishing a new Retired Status and Fees charged by the Board.

Sections Affected: Title 16, Division 39, Sections 4122 (is renumbered to 4127), 4128 is established, and 4130 is amended.

Introduction:

The California Board of Occupational Therapy (Board) is the State agency that regulates the practice of occupational therapy. The Board's highest priority in exercising its licensing, regulatory, and disciplinary functions is to protect and promote the health, safety and welfare of California's consumers. The Board administers, coordinates, and enforces the provisions of the laws and regulations pertaining to the practice of occupational therapy.

The proposed regulations intend to establish rules and procedures for placing a license on Retired Status and increase fees to ensure revenue collected is more closely aligned with the Board's expenditures. The proposed regulations also make a technical formatting change by creating a new Article Section, 3.5 for Inactive and Retired Status, and moves existing regulations pertaining to Inactive Status into the new article.

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT OR REPEAL:

1. Add Article 3.5. Inactive and Retired Status

The proposed change would amend Article 3 by striking reference to section 4122, Inactive Status, and moving it into newly proposed Article 3.5, Inactive and Retired Status.

Factual Basis/Rationale:

The purpose of the proposed change is to separate, differentiate, and group license statuses into two categories: those that authorize practice and those that do not authorize practice.

2. Renumber existing Section 4122 to 4127, and move it into newly proposed Article 3.5, Inactive and Retired Status.

The proposed change takes existing language in Section 4122 regarding Inactive Status and renumbers it to 4127, and moves it under Article 3.5.

Factual Basis/Rationale:

The purpose of the proposed change is to separate, differentiate, and group license statuses into two categories: those that authorize practice and those that do not authorize practice.

3. Add Section 4128, Retired Status

The proposed language establishes the procedures for the holder of license to apply for retired status, establishes certain qualifications for requesting retired status, establishes a retired license shall not be subject to renewal, clarifies the holder of a retired license shall not engage in any activity that would require an active license, sets forth titles and representations that a retired license holder may use, and establishes procedures for reactivating a license to active status.

Factual Basis/Rationale:

The purpose and design of the proposed regulations are to implement Business and Professions Code (BPC) Section 2570.17 which authorizes the Board to issue licenses on Retired Status. Current statutes and regulations prohibit an occupational therapy practitioner from representing to the public that they are an occupational therapy practitioner unless they are licensed to provide services. The regulations will establish that an occupational therapy practitioner who holds a retired license may identify himself or herself as an occupational therapist or occupational therapy assistant as long as they clearly specify they are retired.

The regulations will establish that in the event the holder of a retired license wants to reactivate the license to active status (presumably so they could practice) the licensee shall only pay a single biennial renewal fee and not be required to pay all back accrued renewal fees. The regulations will require a licensee to complete 24 professional development units (PDUs) prior to reactivation for a license that has been on retired status for five years or less, which mirrors the requirement for a licensee who has allowed their license to lapse. The regulations will require a licensee whose license has been on retired status for more than five years, must complete 40 PDUs prior to reactivation of a license, which is consistent with BPC 2570.14(a) and CCR Section 4161(g), regarding individuals applying for a license who have not practiced in five years .

The regulation will also establish that a licensee may only be granted retirement status on two occasions to reduce the possibility that a practitioner may misuse this authority to otherwise circumvent renewal fees for active and inactive licenses.

4. Add new language, amend, and delete language in Section 4130 regarding Fees

The proposed language establishes a \$50 application fee, increases the (prorated) initial license fee from \$150 to \$170 and adds language spelling out the fee, adds language spelling out the fee for a limited permit, sets forth the current \$150 biennial renewal fee shall remain in effect for licenses that expire before January 1, 2014, increases the biennial renewal fee from \$150 to \$170 for licenses that expires on or after January 1, 2014, increases the fee for an inactive license from \$25 to \$50, and adds new language establishing a \$25 fee for an application for retired status.

Factual Basis/Rationale:

The Board is a Special Fund agency, which means that it doesn't rely on General Fund monies for its operation. As a Special Fund agency, revenue collected supports the Board's operations and, thus, the Board should be self-supporting. The purpose of the proposed

regulations is to establish new fees for the processing of applications for licensure and retired status and increase fees for the renewal of active and inactive licenses to increase revenue.

Current budget projections indicate that if the Board spends its entire budget in fiscal year 2012-13, there will be insufficient funds to support operations for the duration of fiscal year 2013-14. Without sufficient funding levels, the Board cannot perform its consumer-protection mandate or continue operations; it would be irresponsible to not increase fees when a *negative* fund reserve is projected. Thus, it is necessary and fiscally prudent to both reduce expenditures and increase fees. While the Board has consistently underspent its budget, an increase in fees is necessary for the Board to collect sufficient revenue to off-set the increased enforcement expenditures; the Board's fiscal goal is to be revenue "neutral" so it can continue its mandated regulatory and enforcement functions and support its administrative and licensing functions.

BUSINESS IMPACT

The proposed amendment to rename Article 3, establish a new Article 3.5, and renumber Section 4122 to Section 4127 will have no cost impact to businesses as the amendments are merely administrative in nature.

The proposed establishment of Section 4128 for placing a license on retired status would have no cost impact to businesses or employers due to the fact that the fee would be payable by a licensee who wished to place their license on retired status.

Amendment of Section 4130 specific to the establishment of charging a fee for the processing of an application for licensure and small increases to the initial license and renewal fees may have a cost impact to those businesses or employers that pay for or reimburse a practitioner's application and/or renewal fees. The Board does track nor monitor those employers that pay or reimburse employees their renewal fees. Thus, the Board does not have statistical data to estimate the cost impact.

ECONOMIC IMPACT ASSESSMENT – Government Code section 11346.3(b)

Creation or Elimination of Jobs in California

The proposed regulatory action seeks to implement statute and create a retired license status for occupational therapy practitioners, establish a \$50 fee for processing the application for licensure, increase the initial licensing fee and biennial renewal fees by \$20, and increase the inactive renewal fee. The Board does not anticipate the proposed regulatory action will either create or eliminate jobs within the State of California. Individuals who seek authorization to provide services within a regulated profession are accustomed to paying fees to fund a regulatory entity.

Creation or Elimination of Existing Businesses Within the State of California

The Board has determined the proposed regulatory action will not create new businesses or result in the elimination of existing businesses within the State of California. The proposed establishment of an application fee and small increases to biennial license and renewal fees directly impacts individuals applying for licensure or who hold a license issued by the Board. The Board is aware that in some cases businesses may pay for professional licensing fees of their employees, which is not required, but may be done at their discretion.

Expansion of Business of Existing Business Within the State of California

The Board has determined the proposed regulatory action will not result in expansion of any businesses currently doing business within the State of California.

Benefits of the Regulations

The proposed regulatory action will ensure the Board remains fiscally solvent to carry out its mission in regulating the practice of occupational therapy and protecting the health, safety, and welfare of California consumers.

UNDERLYING DATA

Table A: Review of application fees and renewal fees charged by other California healing arts Boards.

Table B: Data supporting the proposed fee for processing an Application for Licensure.

SPECIFIED TECHNOLOGIES OR EQUIPMENT

This regulation does not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons and businesses than the proposed regulation.